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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/072,236	02/07/2002	Kaoru Chiba	F-7313	3316
28107	7590	05/03/2006	EXAMINER	
JORDAN AND HAMBURG LLP 122 EAST 42ND STREET SUITE 4000 NEW YORK, NY 10168			JASMIN, LYNDIA C	
			ART UNIT	PAPER NUMBER
			3627	

DATE MAILED: 05/03/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.		Applicant(s)	
	10/072,236		CHIBA, KAORU	
	Examiner		Art Unit	
	Lynda Jasmin		3627	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 06 February 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-15 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-15 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. The reply filed on February 06, 2006 has been acknowledged.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claims 1-15 are rejected under 35 U.S.C. 102(e) as being anticipated by Cameron et al. (2003/0055735 A1).

Cameron et al. discloses an on-line selling system and method comprising:

a sale processing system including a Web site that has a function of accepting an order made from a user's terminal (105) and that can process a delivery of an item of goods the order for that has been accepted as well as a settlement of a goods-item sale price in association with the acceptance of the order (via micropayments) (as illustrated in Figure 3), a goods supply system that supplies an item of goods with respect to the sale processing system, wherein the goods supply system is provided therein a program-providing device that provides a selling program for selling the item of goods to be supplied from the goods supply system to sale processing system (page 22, [0243]), and the selling program causes the user's terminal that has made access to the Web

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site to display on a monitor thereof a process of selecting and buying an item of goods to be supplied from the goods supply system association with user's operation with respect to the user's terminal, and causes the user's terminal to transmit an order for the item of goods bought through the process to the sale processing system (pages 49 and 50; [0344]-[0350]).

Cameron further discloses that the selling program is written in a WWW scripting language and is provided from the Web site to the user's terminal to thereby be executed on the user's terminal in association with a Web browsing program [0145] and [0182].

Cameron further discloses the selling program is configured to execute a prescribed piece of lot-drawing processing to thereby determine an item of goods to be sold the user (via displaying a menu and selecting item from the vending machine using the portable device).

Cameron further discloses the Web site has a function of causing the user's terminal that has made access thereto to display on the monitor thereof a Web page containing therein a prescribed image associated with execution of the selling program, and the selling program is executed in response to a user's selecting operation performed with respect to the prescribed image ([0344-0349]). The selling program causes the user's terminal that has made access to the Web site to display on the monitor thereof an image vending machine and causes the user's terminal to transmit the order for the item of goods to be supplied from the goods supply system to the sale

processing system through a user's prescribed operation associated with the image of the vending machine (§s [0209], [0348-0351]).

Response to Arguments

4. Applicant's arguments filed February 06, 2006 have been fully considered but they are not persuasive. Applicant's first argues on pages 2 and 3, that "Cameron fails to disclose a goods supply system as recited in claim 1." The Examiner respectfully disagrees. Cameron discloses a vendor device having a computer platform.

Applicant's next argues on page 3, that "Cameron fails to disclose or teach a virtual vender machine." The Examiner notes that Cameron discloses a laptop with wireless transmission channel adapter runs custom-written software to simulate a virtual vending machine and sends commands to a real physical one.

In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., the selling style of the actual vendor machine is capable of being changed) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

Conclusion


5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Halvorson (4,847,764), Smith et al. (WO 00/11591) and Banerjee et al. are cited for operating a vending device remotely using a portable device.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lynda Jasmin whose telephone number is (571) 272-6782. The examiner can normally be reached on Monday- Friday (9:30-6:00) with Thursday Telework.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Alexander Kalinowski can be reached on (571) 272-6771. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Lynda Jasmin
Primary Examiner
Art Unit 3627